United Nations S/AC.51/2010/4

Security Council

Distr.: General
12 November 2010

Original: English

Working Group on Children and Armed Conflict

Conclusions on children and armed conflict in Nepal

1. At its 25th meeting, on 29 April 2010, the Working Group on Children and Armed Conflict examined the report of the Secretary-General on children and armed conflict in Nepal (S/2010/183), introduced by the Special Representative of the Secretary-General for Children and Armed Conflict. The Deputy Permanent Representative of Nepal to the United Nations participated in the subsequent discussion.

2. The main elements of the exchange of views among the members of the Working Group were as follows:

(a) They welcomed the submission of the report of the Secretary-General in accordance with Security Council resolution 1612 (2005), and took note of the analysis and recommendations contained therein;

(b) They welcomed the Action Plan that was signed by the Government, the Unified Communist Party of Nepal-Maoist (UCPN-M) and the United Nations on 16 December 2009, in accordance with the Nepal peace agreement, the recommendations in the previous report of the Secretary-General (S/2008/259) and the conclusions of the Working Group on Children and Armed Conflict (S/AC.51/2008/12) that permitted the official discharge of the disqualified Maoist personnel verified as minors and which has resulted in the discharge of 2,973 children as of March 2010;

(c) They also welcomed the Government initiative to pass the child rights protection and promotion bill to criminalize the recruitment and use of children by armed groups and armed forces;

(d) They underscored the need to clear landmines and unexploded ordnance, in order to avoid the killing and maiming of children;

(e) They expressed concern regarding children's exposure to or forced participation in violent political activities.

3. The Deputy Permanent Representative of Nepal:

(a) Took note of the report of the Secretary-General on children and armed conflict in Nepal (S/2010/183) and recognized that the discharge of minors from the

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cantonment and the ongoing process to rehabilitate them have been a significant step in the peace process;

(b) Stated that, since the launching of the peace process, there has been no new recruitment of children as combatants;

(c) Stated also the commitment of his Government to operationalize the National Plan of Action for the Reintegration of Children Affected by Armed Conflict;

(d) Stressed that Nepal, as a party to the Convention on the Rights of the Child, is fully committed to protecting and promoting the rights of the child;

(e) Emphasized that article 22 of the Interim Constitution of Nepal, 2007 guarantees that no minor shall be employed in factories, mines or any other such hazardous work, or shall be used in the army, the police or in conflicts;

(f) Assured the Working Group of the full cooperation of the Government in discharging its national responsibilities and expressed appreciation for the possible support the United Nations system and development partners could provide in this endeavour.

4. Further to the meeting and subject to and consistent with applicable international law and relevant Security Council resolutions, including resolutions 1612 (2005) and 1882 (2009), the Working Group agreed to the following direct action.

Public statement by the Chairman of the Working Group

5. The Working Group agreed to address a message to all stakeholders involved in the protection of children in Nepal, in particular the Unified Communist Party of Nepal-Maoist (UCPN-M) and youth wings of the major political parties, through a public statement by its Chairman on behalf of the Working Group:

(a) *Welcoming*:

(i) The Action Plan that was signed by the Government, UCPN-M and the United Nations on 16 December 2009, in accordance with the Nepal peace agreement, the recommendations in the report of the Secretary-General (S/2008/259) and the conclusions of the Working Group (S/AC.51/2008/12);

(ii) The official discharge of the disqualified Maoist personnel verified as minors, which had resulted in the discharge of 2,973 children as of March 2010;

(b) *Urging* them:

(i) To refrain from any new recruitment or re-recruitment of children and to ensure that children are not exposed to or forced to participate in violent activities, or forced into association with groups that engage in such activities;

(ii) To immediately stop the closure and use of schools during strikes (*bandhs*), which curtail freedom of movement and restrict children's access to education, including in the Tarai region;

(iii) To give all necessary support to strengthening the monitoring and reporting of violations against children, in particular those committed in the Tarai region;

(iv) In particular the UCPN-M, to cooperate closely with the United Nations and the Government of Nepal to ensure the full implementation of the Action Plan, as well as to ensure that Maoist army personnel disqualified as minors have unhindered access to the rehabilitation packages offered by the Government and supported by the United Nations;

(v) To stop the use of improvised explosive devices to avoid the killing and maiming of children;

(c) In line with the above, the Working Group stresses its intention to visit Nepal in the coming months to follow up on the progress made in the protection of children, in particular on the status of the Action Plan, the remaining challenges and issues concerning the monitoring and reporting mechanism, and rehabilitation and reintegration programmes for children formerly associated with armed groups and individuals recruited as minors; and to demonstrate commitment to children and communities affected by armed conflict.

6. The Working Group agreed to recommend that the President of the Security Council transmit the following letters:

Letter from the Chairman of the Working Group transmitted by the President of the Security Council to the Government of Nepal

(a) *Welcoming*:

(i) The Action Plan that was signed by the Government of Nepal, UCPN-M and the United Nations on 16 December 2009, in accordance with the Nepal peace agreement and the recommendations in the report of the Secretary-General (S/2008/259) and the conclusions of the Security Council Working Group on Children and Armed Conflict (S/AC.51/2008/12);

(ii) The official discharge of the disqualified Maoist personnel verified as minors, which had resulted in the discharge of 2,973 children as of March 2010;

(iii) The efforts and progress made to address the recruitment and use of children consistent with the applicable international obligations and commitments of the Government of Nepal and other violations and abuses committed against children within its territory;

(b) *Expressing concern* about public security, which remains a matter of serious preoccupation, especially in the Tarai region and in some hill districts in the eastern region, where many armed groups continue to operate in a climate of impunity and the population, including children, continues to be the victim of armed groups;

(c) *Encouraging* it:

(i) To endorse, as soon as possible, the National Plan of Action for the Reintegration of Children Affected by Armed Conflict, call for its further full operationalization, and ensure the allocation of adequate resources for its effective implementation;

(ii) To ensure that the draft bills on the Truth and Reconciliation Commission and the Disappearances Commission are fully consistent with the applicable international obligations and commitments of the Government of Nepal, taking into account international standards, and that they make special provision for children;

(iii) To expedite the enactment of the child rights protection and promotion bill to ensure the immediate criminalization, consistent with the international obligations of Nepal, of the recruitment and use of children by armed groups and armed forces;

(iv) To take measures in favour of child victims and individuals recruited as minors aimed at ensuring the adequate functioning of the existing rehabilitation and reintegration programmes, in order to ensure appropriate access to remedies, including through awareness-raising campaigns to encourage the use of these programmes;

(v) To continue providing mine risk education activities through the Department of Education and supported by the United Nations Mine Action Team for teachers and children in the districts directly affected by mines, and to accelerate the development of the national mine action plan;

(d) *Urging* it:

(i) To ensure that all children formerly associated with armed groups and individuals recruited as minors receive long-term support, particularly crucial educational support, in order to enable their appropriate rehabilitation and reintegration back into society. A viable protection and prevention system is also required in order to reduce the vulnerability of all children to any possible new recruitment or re-recruitment;

(ii) To continue to take all steps necessary to put an end to impunity by ensuring effective accountability for violations and abuses committed by all parties during and after the conflict, in particular by investigating allegations of recruitment, re-recruitment and use of children, killings and maimings, rape and other sexual violence, abductions, attacks on schools and hospitals, and denial of humanitarian access, and prosecuting the perpetrators of such actions accordingly;

(iii) To continue its policy of not using anti-personnel landmines in violation of applicable international law and to remove unexploded ordnance, in order to avoid the killing and maiming of children;

(e) In line with the above, the Working Group stresses its intention to visit Nepal in the coming months to follow up on the progress made in the protection of children, in particular on the status of the Action Plan, the remaining challenges and issues concerning the monitoring and reporting mechanism, and rehabilitation and reintegration programmes for children formerly associated with armed groups and individuals recruited as minors; and to demonstrate commitment to children and communities affected by armed conflict.

Letter from the Chairman of the Working Group transmitted by the President of the Security Council to the Secretary-General

(a) *Commending* the efforts undertaken by the United Nations to contribute actively to the protection of children in Nepal, including the Action Plan that was signed with the Government and UCPN-M on 16 December 2009, in accordance with the Nepal peace agreement, the recommendations in the report of the Secretary-General (S/2008/259) and the conclusions of the Security Council Working Group on Children and Armed Conflict (S/AC.51/2008/12);

(b) *Requesting* him to ensure that the United Nations continue monitoring the compliance of UCPN-M with the Action Plan and requirements under Security Council resolutions 1612 (2005) and 1882 (2009), paying particular attention to whether discharged minors are forced or otherwise coerced into association with groups which engage in political violence;

(c) *Requesting* him to ensure that a child protection capacity is preserved in phasing out the activities of the United Nations Mission in Nepal (UNMIN), with a view to facilitating, inter alia, the discharge of all children present in the containment camps;

(d) *Commending* the work of the Children Associated with Armed Forces and Armed Groups Working Group.

Direct action by the Working Group

7. The Working Group agreed to address the following letter:

Letter from the Chairman of the Working Group to the Representative of the Secretary-General in Nepal and Head of the United Nations Mission in Nepal

(a) *Commending* the work of child protection advisers in UNMIN and their continued efforts to ensure the protection of children in Nepal, and requesting her to:

(i) Continue to allocate human and technical resources to ensure that all children affected by the conflict in all regions are covered under the monitoring and reporting mechanism;

(ii) Continue to advocate for greater protection of children.

8. The Working Group further agreed to address the following letters:

Letter from the Chairman of the Working Group to donors

Inviting them:

(a) To ensure that sufficient resources are made available to support programmes for the release, return and reintegration of children associated with armed groups to their respective families and communities, including for the programme of the Children Associated with Armed Forces and Armed Groups Working Group, with due consideration for the long-term requirements of such programmes;

(b) To support the Government of Nepal in its efforts to secure the funding for staff to survey and clear landmines and unexploded ordnance, as well as for victim assistance.

Letter from the Chairman of the Working Group to the Resident Coordinator and the United Nations country team

(a) *Commending* their efforts in the follow-up to Security Council resolutions 1612 (2005) and 1882 (2009), in particular as regards the Task Force on Children and Armed Conflict, and its coordinating role within the Children Associated with Armed Forces and Armed Groups Working Group;

(b) *Requesting* them to continue to advocate for greater protection of children.

United Nations S/AC.51/2010/5

Security Council

Distr.: General
12 November 2010

Original: English

Working Group on Children and Armed Conflict

Conclusions on children and armed conflict in the Philippines

1. At its 25th meeting, on 29 April 2010, the Working Group on Children and Armed Conflict examined the report of the Secretary-General on children and armed conflict in the Philippines (S/2010/36), which was introduced by the Special Representative of the Secretary-General for Children and Armed Conflict. The Permanent Representative of the Philippines participated in the subsequent discussion.

2. The main elements of the exchange of views among the members of the Working Group are summarized below:

(a) The members of the Working Group welcomed the report of the Secretary-General and the analysis and recommendations contained therein met with a favourable response;

(b) They also welcomed sustained efforts by the Government of the Philippines in the protection of children;

(c) They welcomed as a positive step the signing of an action plan by the Moro Islamic Liberation Front with the United Nations in July 2009;

(d) They expressed grave concern about the persistence of violations and abuses committed against children in the situation of armed conflict in the Philippines, and therefore stressed the need to reinforce the monitoring and reporting mechanism in the country, including by ensuring that the resources needed for the development and implementation of action plans are made available.

3. The Permanent Representative of the Philippines:

(a) Reiterated the commitment of his Government to the protection of children affected by armed conflict, highlighting some key developments in this regard, in particular the implementation of the Comprehensive Programme on Children Involved in Armed Conflict, the appointment of the Council for the Welfare of Children as a focal agency for monitoring and reporting violations and abuses committed against children, a study on resource mapping of services available for child victims, and the intention to establish a quick response team for the purposes of responding to, verifying and documenting reports of violations and abuses committed against children;

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(b) Regarding the alleged violations committed by the Armed Forces of the Philippines, he assured the Working Group that his Government will remain untiring and vigilant in the investigation of these allegations. Finally, he stated that the Government of the Philippines will continue working with the United Nations and other stakeholders to protect the rights of children in the midst of armed conflict.

4. Further to the meeting and subject to and consistent with applicable international law and relevant Security Council resolutions, including resolutions 1612 (2005) and 1882 (2009), the Working Group agreed to the following direct action.

Public statement by the Chairman of the Working Group

5. The Working Group agreed to address a message to all parties to armed conflict in the Philippines, in particular those groups mentioned in the report of the Secretary-General on children and armed conflict, through a public statement by the Chairman on behalf of the Working Group:

(a) *Strongly condemning* all violations and abuses committed against children by all parties to the conflict in contravention of applicable international law involving the recruitment and use of children, killing and maiming, rape and other sexual violence, abductions, attacks against schools or hospitals and denial of humanitarian access;

(b) *Urging* them to take all necessary actions towards the full implementation of their commitments and obligations through the expeditious development and implementation of action plans in line with Security Council resolutions 1612 (2005) and 1882 (2009);

(c) *Expressing* deep concern regarding the fact that there have been more cases, in contravention of international law, of recruitment of children, a greater number of children killed and maimed, a notable increase in the use of improvised explosive devices in populated areas and a considerable increase in cases of attacks on schools and hospitals and denial of humanitarian access during this reporting period;

(d) *Emphasizing*:

(i) That the preparation and full implementation of an action plan in line with Security Council resolutions 1612 (2005) and 1882 (2009), verified by the United Nations task force on monitoring and reporting, is an important step to take for a party to conflict to be de-listed from the annexes to the reports of the Secretary-General on children and armed conflict;

(ii) That the Working Group will closely monitor, through the reports of the Secretary-General on children and armed conflict, progress on eliminating the violations and abuses set out in Security Council resolutions 1612 (2005) and 1882 (2009) by all parties to the conflict in the Philippines, until there is a complete release and reintegration of children associated with them and full implementation of action plans;

(iii) Its readiness to adopt further steps against persistent perpetrators if they do not abide by their obligations under applicable international law with respect to children and armed conflicts.

To the leadership of the Moro Islamic Liberation Front

(a) *Welcoming* the signing of an action plan with the United Nations in July 2009 to prevent the recruitment and use of children in accordance with Security Council resolution 1612 (2005) and as requested in the previous conclusions of the Working Group on the Philippines (S/AC.51/2008/10);

(b) *Welcoming* the signature by the Moro Islamic Liberation Front (MILF) of the Agreement on Civilian Protection Component of the International Monitoring Team, which recalls the obligations of MILF under applicable international law and includes provisions for the preservation of facilities vital for the survival of civilians, such as schools, hospitals and relief distribution sites;

(c) *Urging* it:

(i) To take all necessary actions towards the full and expeditious implementation of the action plan signed in line with Security Council resolutions 1539 (2004), 1612 (2005) and 1882 (2009), and rapidly register and release all children still present within its ranks in a manner that allows effective confirmation and follow-up by the country task force on monitoring and reporting;

(ii) To immediately halt all violations and abuses committed against children, in particular killing and maiming and attacks against schools in violation of applicable international law and to fully recognize and respect the civilian status of schools;

(iii) To immediately issue a supplemental general order to facilitate the release of children that may be found within their ranks as well as the implementation of necessary sanctions for non-compliance with the provisions of the action plan;

(iv) To clarify as a matter of priority, how the action plan will be implemented among all its units.

To the leadership of the New People's Army

(a) *Urging* it:

(i) To immediately halt all violations and abuses committed against children, in contravention of international law, involving the recruitment and use of children and killing and maiming of children;

(ii) To engage in the development of a concrete time-bound action plan to halt the recruitment and use of children in contravention of applicable international law, in accordance with Security Council resolutions 1539 (2004), 1612 (2005) and 1882 (2009), and ensure the immediate separation of any children associated with them;

(iii) To facilitate the handover of children associated with them to local social welfare agencies, as appropriate, to be provided with rehabilitation services;

(iv) To allow unimpeded access of monitoring and reporting teams in order to facilitate monitoring and verification of the situation of children in armed conflict, and to guarantee the safety and security of these teams;

(v) To designate monitoring focal points within its ranks.

6. The Working Group also agreed to release a statement in the following terms:

(a) *Strongly condemning* the recruitment and use of children, including for military operations and terror acts, the killing and maiming of children, as well as all other violations committed against children by the Abu Sayyaf Group, as reflected in the report of the Secretary-General on children and armed conflict in the Philippines;

(b) *Stressing* that:

(i) Consistent with relevant Security Council resolutions and applicable international law, the Abu Sayyaf Group must ensure that children are not used in any military operation or terror act, proceed with the immediate release of all children associated with it in any capacity, in a manner that allows effective confirmation by the United Nations task force on monitoring and reporting, and halt all attacks, in particular kidnappings, committed against humanitarian workers and teachers;

(ii) In accordance with Security Council resolutions 1539 (2004), 1612 (2005) and 1882 (2009) the Abu Sayyaf Group must develop and implement a concrete time-bound action plan to halt the recruitment and use of children, and prevent any new recruitment or re-recruitment.

Recommendation to the Security Council

7. The Working Group agreed to recommend that the President of the Security Council transmit the following letters:

Letter from the Chairman of the Working Group transmitted by the President of the Security Council to the Government of the Philippines

(a) *Welcoming*:

(i) Its declaration of the ceasefire and the issuance of a Suspension of Military Operations against MILF;

(ii) The capacity-building of security focal points at the human rights offices of the Armed Forces of the Philippines and the Philippine National Police;

(iii) Its continued cooperation with the monitoring and reporting mechanism and in this regard recognizing that the Armed Forces of the Philippines have conducted investigations into alleged violations against children committed by the Armed Forces;

(b) *Expressing* deep concern regarding the fact that there have been more cases, in contravention of international law, of recruitment of children, a greater number of children killed and maimed, a notable increase in the use of improvised explosive devices in populated areas, and a considerable increase in cases of attacks on schools and hospitals and denial of humanitarian access during the reporting period;

(c) *Urging* it:

(i) To continue to take concrete action to ensure that the Armed Forces of the Philippines and the paramilitary groups immediately stop committing violations and abuses against children, in contravention of applicable

international law, involving, inter alia, recruitment and use of children, killing and maiming and occupation of schools;

(ii) To ensure that all cases of rape and other sexual violence perpetrated against children, including those committed by military personnel, be fully investigated and the perpetrators prosecuted accordingly, to ensure the proper dispensation of necessary disciplinary attention and to guarantee the safety of the victims and witnesses, and to provide adequate assistance to victims in accordance with applicable international standards;

(iii) To ensure that children associated with armed groups and forces are treated as victims and in line with the memorandum of agreement on the treatment and handling of children involved in armed conflict issued by the Government Inter-Agency Committee on Children Involved in Armed Conflict;

(iv) To take measures to stop the killing and maiming of children resulting from aerial and artillery bombs and to stop using anti-personnel landmines in violation of applicable international law and to remove unexploded ordnance immediately after the cessation of hostilities, in order to avoid the killing and maiming of children as a result of their use;

(d) *Encouraging* it:

(i) To seek technical assistance from the country task force to strengthen the capacity of its military and police forces to protect children in conflict areas;

(ii) To continue its support for the implementation of the United Nations-MILF action plan, its dialogue with the New People's Army regarding children and armed conflict and to further enhance activities to halt and respond to all violations against children, including the development of action plans as appropriate;

(iii) To continue to consider the integration of specific provisions on child protection in the agenda of the peace talks;

(iv) To take preventive measures to protect children, in particular girls in settings of internally displaced persons, from any form of exploitation or abuse including through integrating child protection in the training of military, police, paramilitary and security personnel.

Letter from the Chairman of the Working Group transmitted by the President of the Security Council to the Secretary-General

(a) *Welcoming* the signing of an action plan between MILF and the United Nations and in this regard commending the efforts made by the United Nations Children's Fund (UNICEF), the Special Representative of the Secretary-General for Children in Armed Conflict and the United Nations Resident Coordinator;

(b) *Requesting* him:

(i) To enhance the capacity and ability of the monitoring and reporting task force to monitor and report on violations and abuses committed against children, including through the rectification and establishment of clear priorities to monitor and report violations and abuses committed by all parties to conflict against children;

(ii) To continue to explore strategies to establish monitoring mechanisms in restricted areas, such as in south-western Mindanao;

(iii) To encourage the country task force to explore partnerships with the Office of the Presidential Adviser on the Peace Process to further develop activities to halt and respond to all violations against children, including the preparation of action plans as appropriate.

Letter from the Chairman of the Working Group to donors

Encouraging them to provide the necessary resources to assist the country task force in enhancing all aspects of monitoring and responding to all violations and abuses committed against children, in particular for upgrading the human resource capacity and implementation of the action plan signed by MILF, and to further develop activities to halt and respond to all violations against children, including the preparation of action plans as appropriate.